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ABSTRACT

California's 50% law requires that at least half of a community college district's expenditures per fiscal year be spent on instructional costs. These costs include the salaries of certificated instructors, salaries of such classified instructional personnel as aides and assistants, and employee benefits. A district's general expenditures include salaries of certificated and classified noninstructional personnel, employee benefits for these two groups, books and materials, contracted services, and equipment replacement. Funds from lottery revenues and expenses incurred from the leasing of the plant and equipment, the leasing of computers, and instructional agreements may be excluded from the total expenditures to help districts meet the 50% requirement. In 1987, a study was undertaken to identify new approaches to meeting the requirement; to determine the fiscal impact of any new approaches; to compare the methodology of these approaches with guidelines set forth in the California Education Code (CEC); and to identify factors that significantly affect compliance with the 50% law. Selected findings include the following: (1) most of the 39 districts that spent under 52% of their funds on instructional costs in fiscal year 1985-86 would not have met the minimum 50% requirement without the utilization of exclusions; (2) inconsistent accounting practices have developed over the years, which combined with the uniqueness and magnitude of the newly introduced lottery revenues, have resulted in a loss of consistency and comparability in the 50% law; and (3) some of the factors that have the most influence on 50% law compliance are high or low faculty salary schedules, the percentage of faculty contract hours taught by part-time instructors, a centralized or decentralized district organization, and the use of non-public vocational training schools. Percentages of selected districts' instructional costs for 1985-1987 and excerpts from the CEC are appended. (JMC)

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APPROACHES TO MEETING THE 50% LAW REQUIREMENT

Prepared by

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November 18, 1987

JC 890 402

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I. PURPOSE

The leave was granted to provide an a opportunity to conduct research on the following:

1. Approaches to meeting the 50% law requirement
2. Fiscal accountability - advantages vs. disadvantages

This report will focus on the first item, namely, approaches to meeting the 50% law requirement.

II. OBJECTIVES

The objectives of the research are as follows:

1. Identify community college districts within the State of California which have implemented or are presently developing new approaches to meeting the 50% law requirement.

2. Visit selected districts and, using auditing techniques, review their financial reports to determine the fiscal impact of any new approaches.

3. Compare the methodology of all new approaches to the uniform system of budgeting and accounting as prescribed by the California Community College Budget and Accounting Manual in accordance with Sections 71073 and 84004 of the Education Code.

4. Advance postulates which may presuppose the position of a district relative to the 50% law.

III. DEFINITIONS/FORMULA/SPECIFICITY/MODEL/EXAMPLES

Chapter Summary

In this chapter of the report the definitions, terminology, and specificity of the 50% law are presented. A model is also presented and illustrations with examples to clarify the variants of the formula. Of the four methods of increasing the attainment of the 50% law requirement, the transfer method is perhaps the most difficult to achieve. The method of increasing instructional expenses requires a great deal of finesse at the bargaining table and lots of ongoing unencumbered funds. The decreasing of noninstructional expenses requires budget reductions, never an easy process. On the other hand, the method of increasing exclusions in unburdened by the disadvantages of the other three methods. It is, therefore, of significant interest and will be exposed in detail in the findings of this report.

50% Law - as codified in Section 84362 of the Education Code, the 50% law requires that there shall be expended during each fiscal year for payment of salaries of classroom instructors by a Community College District, 50% or more of the District's current expense of education.

Salaries of Classroom Instructors - as codified in Sections 84031 and 84362 of the Education Codes and Section IV 35-37 of the Budget and Accounting Manual for California Community Colleges means:

1. The salary paid to each instructor employed by the district on a full time basis who is engaged in the instruction of district students.

2. That portion of the salary paid to instructors, whose duties require less than full time instruction of students, which is equal to the actual time devoted by the instructor to teaching students.

3. The salaries paid to instructional aides employed by the district, any portion of whose duties are required to be performed under the supervision of an instructor.

4. The costs of all health and welfare benefits provided to instructors and instructional aides.

For purposes of this report and in order to simplify examples and illustrations, the term salaries of classrooms instructors is also referred to as the numerator of the 50% law calculation.

Current Expense of Education - as defined in Section 84362 the current expense of education is the total general fund expenditures for certificated salaries, classified salaries, employee benefits, books, supplies, equipment replacement, contracted services, utilities, and other operating expenses; other than such expenditures for student transportation, food services, and community services. Current expense of education shall not include those expenditures classified as sites, buildings, books and media, and new equipment or otherwise assigned as object of expenditure 6000 - Capital Outlay - in the California Community College Budget and Accounting Manual; and the amount expended from categorical aid received from the federal or state government.

Additional Exclusions

In addition, the following expenditures are excludable from the current expense of education:

1. Student transportation
2. lease agreements for plant and or equipment
3. State or federal funds received for grants to community college students or for the employment of community college students
4. Health Services maintenance of effort costs exceeding any health fee funds, however, effective 1/1/88 with the reinstatement of fees, such costs will again be applicable to restricted revenue collected
5. Amounts expended from State lottery proceeds.

Formula

For purposes of this report, the term current expense of education is also referred to as the denominator of the 50% law calculation.

In order to translate the preceding definitions into more meaningful information, the 50% law formula and specific terminology are presented:

Division Rule: $\frac{\text{Numerator}}{\text{Denominator}} = \text{Quotient}$

Formula: $\frac{\text{Salaries of classroom instructors}}{\text{Current expense of education}} = \text{Quotient}$

Example: $\frac{\$19,000,000}{\$37,700,000} = 50.40\%$

Specificity

The numerator (salaries of classroom instructors) is comprised exclusively of instructional salaries and benefits and can be separated into three major categories as follows:

1. Certificated Instructional Costs

    a. Full-time instructors
    b. Part-time instructors
    c. Substitute instructors
    d. Full/part-time department chairpersons
    e. Prorated portion of credentialed administrators, supervisors, coordinators, librarians, and counselors spent in classroom instruction

2. Classified Instructional Costs

    a. Full-time instructional aides, assistants and associates
    b. Part-time instructional aides, assistants, and associates
    c. Substitute instructional aides, assistants and associates
    d. Tutors

3. Employee Benefits

    a. State Teachers' Retirement and Public Employee Retirement Systems' benefits (S.T.R.S., P.E.R.S.) for employees in categories 1 and 2 above who qualify.

    b. Federal Retirement and medical benefits including Social Security, Old Age Survivor Disability and Health Insurance (O.A.S.D.H.I.) for all employees in categories 1 and 2 above who qualify.

    c. State Unemployment Insurance benefits (S.U.I.) for all employees in categories 1 and 2 above.

    d. Workers' Compensation Benefits for all employees in categories 1 and 2 above.

    e. District medical, dental, life insurance and other supplementary retirement, annuity of other health and welfare benefits granted by the district or imposed by statute for all employees in categories 1 and 2 above.

The denominator (current expense of education) is comprised of the numerator (salaries of classroom instructors) plus noninstructional expenses which can be separated into six major categories:

1. Certificated noninstructional costs including, but not limited to, the following:

   a. Administrators
   b. Supervisors
   c. Coordinators
   d. Librarians
   e. Counselors
   f. Physicians
   g. Nurses

2. Classified noninstructional costs including, but not limited to, the following:

   a. Board Members and Administrators
   b. Managers
   c. Directors
   d. Supervisors
   e. Secretaries
   f. Clerks
   g. Skilled and unskilled maintenance workers
   h. Custodians and gardening workers
   i. Media, personnel, payroll and personnel specialists and other technicians
   j. Mechanics, transportation, warehousing delivery and print shop workers
   k. Accountants, programmers, data processing and research analysts
   l. Security and police officers, athletic trainers and locker room attendants

3. Employee benefits for all noninstructional costs related to the costs of employees itemized in categories 1 and 2 above including, but not limited to, the following:

   a. State retirement benefits (S.T.R.S. and P.E.R.S.)
   b. Federal retirement and insurance benefits (O.A.S.D.H.I./social security and medicare)
   c. State unemployment benefits (S.U.I.)
   d. Workers compensation benefits
   e. Medical, dental, life insurance, transportation allowances, and other supplemental retirement annuities or other health and welfare benefits granted by the district or imposed by statute

4. Supplies, books, and materials including, but not limited to, the following:

   a. Instructional materials and supplies
   b. Noninstructional (office) supplies
   c. Library books, reference books; except complete volumes and purchases for a new library, binding and cataloging

5. Contracted services and other operating expenses including, but not limited to, the following:

   a. Utilities
   b. Conference and travel
   c. Consultants and lecturers
   d. Insurance premiums and other expenses
   e. Legal, audit and election expenses
   f. Maintenance agreements
   g. Lease of facility and equipment
   h. Contract services and instructional agreements
   i. Interest on short term borrowing and other operational expenses

6. Equipment replacement:

   a. Equipment purchase/leased as a replacement for existing equipment which is deemed worn out

Model & Examples

In order to make the preceding formula and terminology more useful and to help make the illustrations here and in the findings of this report more clear, the following 50% law model is presented:

Formula: $\frac{\text{Salaries of Classroom instructor}}{\text{Current expense of education}} = \text{Quotient}$

Example: $\frac{\$19,000,000}{\$37,700,000} = 50.40\%$

Model:

$$\frac{\text{Instructional expenses}}{\text{Instructional expenses + Noninstructional expenses}} = \text{Quotient}$$

Example: $\frac{\$19,000,000}{\$19,000,000 + \$18,700,000} = \frac{\$19,000,000}{\$37,700,000} = 50.40\%$

Given the model, the following methods can be used to increase the quotient.

1. Increase instructional expenses

   Example:

$$\frac{\$19,000,000 + \$300,000}{\$19,000,000 + \$300,000 + \$18,700,000} = 50.79\%$$

In this example instructional expenses were increased $300,000 which resulted in an increase from 50.40% to 50.79% or .39 percentage points.

2. Decrease noninstructional expenses

   Example:

$$\frac{\$19,000,000}{\$19,000,000 + \$18,700,000 - \$300,000} = 50.80\%$$

In this example noninstructional expenses were reduced by $300,000 which resulted in an increase from 50.40% to 50.80% or .40 percentage points.

3. Transfer noninstructional expenses to instructional expenses

   Example:

$$\frac{\$19,000,000 + \$300,000}{\$19,000,000 + 300,000 + 18,700,000 - 300,000} = 51.19\%$$

In this example, $300,000 of noninstructional expenses were transferred to instructional expenses which resulted in an increase from 50.40% to 51.19% or .79 percentage points.

4. Increase exclusions from noninstructional expenses.

   Example:

$$\frac{\$19,000,000}{\$19,000,000 + \$18,700,000 - \$300,000} = 50.80\%$$

In this example, $300,000 have been deleted from noninstructional expenses which resulted in an increase from 50.40% to 50.80% or .40 percentage points.

IV. FINDINGS/STATEWIDE DATA/EXCLUSIONS

Chapter Summary/Findings

The findings highlight the significance of the application of State lottery proceeds as excludable expenses in the computation of the 50% law. The on site review of financial data of several community college districts also supports the fact that many districts are applying lottery expenses to only the noninstructional component of the denominator of the calculation, thereby maximizing their 50% law compliance requirement.

The findings also indicate that among all the exclusions allowed pursuant to statute, lottery expenses are unique in that they are:

1. Directly linked and limited to a specific source of revenue and,

2. Assignable to any expenditure of the general fund except the purchase of real property, construction of facilities, and research.

In addition, the data and site visitations appear to indicate that districts, in fiscal year 1985-86, which took maximum advantage of lottery expenditures in the computation of the 50% law, found it more difficult to comply in fiscal year 1986-87 because of the significant reduction (approximately 27%) in lottery revenues in fiscal year 1986-87 over fiscal year 1985-86.

This information suggests that since lottery revenues are unpredictable, a district, which is within one percentage point of compliance, should use a very conservative estimate in predicting lottery revenues and estimating lottery expenses in their financial planning models on the 50% law requirement. A cautious approach to financial modeling and quarterly updates, correcting estimates to actuals, would serve to alert management as to the district's estimated 50% law position. This should allow management sufficient time to implement alternative courses of action.

Exhibit I in the appendix of this report indicates that of the selected districts, most have reported a reduction in the percentage of current expense of education spent on salaries of classroom instruction in fiscal year 1986-87 compared to 1985-86. Those districts that reported an increase did so by severely cutting noninstructional expenses such as maintenance, operations, and repair of facilities or paying retroactive faculty settlements.

It is the finding of this report that the single most significant cause of that reduction was the 27% reduction in State lottery revenues for the fiscal year 1986-87 compared to fiscal year 1985-86.

It also appears that districts are looking into the interstices of contract costs in order to increase excludable expenses. Without specific guidelines, directives, or legal opinions, the creative district may step beyond the limits. Certainly, critical areas should be treated similarly among the districts in order to maintain consistency and comparability in financial and statistical reporting.

Although there are a myriad of other examples, the ones presented here serve to support the findings of this report which suggest that those districts which are struggling to meet the 50% law requirement are maximizing the utilization of the allocation principle whereas those districts which comfortably exceed the minimum requirement do not extensively utilize it. This leads to inconsistencies with regard to activity expenditures among the community colleges and make comparisons of major statistical and financial parameters e.g. current expense of education, difficult at best.

Statewide data on the 50% law

Exhibit II in the appendix of this report is a frequency distribution of instructors salaries as a percentage of current expense of education for all California Community College Districts. This frequency distribution is the best indicator of the Community College's attempt to comply with the 50% law requirement: The statewide average for Community Colleges in FY 1985-86 was 52.39%. However, that is a misleading statistic since the mean is influenced by extreme highs and lows.

A better approach to reviewing the data is to look at the cumulative percentage of districts below a certain percentage. Viewing the frequency distribution in this manner reveals that 24 or approximately 34.2% of the 70 districts spent less than 51% of these current expense of education on instructors salaries.

This is an alarming statistic and indicates that approximately 1/3 of the districts are in an uncomfortable position. Indeed the frequency distribution indicates that 3 of those districts did not meet the minimum 50 percentage requirement.

The data presented in exhibit is for fiscal year 1985-86 and is the most current fiscal information available on all California State Community Colleges.

Exclusions

There are a number of exclusions from the Current Expense of Education (denominator) which are allowed pursuant to Education Code 84362 and the accompanying Title 5 regulations. These exclusions include the following:

1. Amounts expended from State lottery proceeds
2. Lease agreemerts for plant and/or equipment
3. State or federal funds received for grants to Community College students or for the employment of community college students
4. Health services maintenance of effort costs exceeding any health fee funds through 12/31/87, at which time such costs apply to the restricted revenues collected
5. Student transportation from State lottery proceeds
6. Community Recreation
7. Community Service classes
8. Community Use of facilities
9. Bookstore Operations
10. Child Development Centers
11. Farm Operations
12. Food Services Operations
13. Parking
14. Student and Cocurricula Activities
15. Student Housing
16. Other ancillary Services
17. Auxiliary classes
18. Other auxiliary Operations

Exclusions play a major role in helping districts attain the 50% law minimum requirement. In fact exclusions are so significant that most of the 39 districts which were under 52% in fiscal year 1985-86 would have not met the minimum 50% requirement without the utilization of exclusions.

Lottery expenses are unique among these exclusions and because of this and their significant fiscal impact they will be treated first.

Lottery Revenues

Commencing with FY 1985-86 the receipt and expenditure of lottery revenues could greatly impact the 50% law. With the exception of real property, construction of facilities (which are excluded from the 50% law calculation) and research, lottery revenues can be spent on any general fund expenditures.

Given this flexibility, those districts which were having difficulty meeting the 50% law requirement, could simply assign noninstructional denominator expenditures as amounts expended from the State lottery proceeds and thereby significantly improve their 50% law position. This is so because all amounts expended from State lottery proceeds are to be excluded from the current expense of education. Mathematically, a reduction in the denominator while keeping the numerator constant always results in a higher quotient (percentage or decimal). The following examples serve to illustrate the point:

Model:

$$\frac{\text{Instructional expenses}}{\text{Instructional expenses + Noninstructional expenses}} = \text{Quotient}$$

1. Before application of lottery expenses

   Example:

$$\frac{\$19,000,000}{\$19,000,000 + \$19,400,000} = 49.48\%$$

2. After application of lottery expenses in the amount of $700,000

   Example:

$$\frac{\$19,000,000}{\$19,000,000 + \$18,700,000} = 50.40\%$$

It is important to note that in the above examples the total dollar amounts expended were identical. The only change was the application or assignment of lottery expenditures. By coding or assigning $700,000 of noninstructional - current expense of education, as expenses of State lottery proceeds, the denominator was reduced from $38,400,000 to $37,700,000. This resulted in an increase in the quotient from 49.48% to 50.40%. Obviously, in order to assign $700,000 of expenditures as lottery proceeds, the district must have booked lottery revenues for the current year in the same amount.

During the fiscal year 1985-86, State lottery revenues amounted to approximately $126 per ADA or approximately $82.4 million dollars for the California Community Colleges. During the same period total revenues amounted to approximately $2.1 billion dollars. Thus, lottery revenues were less than 4% of the total. However, a more meaningful statistic can be found by comparing lottery revenues to current expense of education since, it is this factor which lottery revenues when assigned as expenditures, has the most impact.

During fiscal year 1985-86, current expenses of education totaled $1.638 billion statewide. Thus, lottery revenues were 5.0% of current expense of education. This means that on a statewide basis, districts could change their 50% law computation by at least 2.5 percentage points, just by assigning amounts spent in the noninstructional component of the denominator as proceeds from State lottery revenue. Of course individual districts would be different from the statewide mean.

During the fiscal year 1986-87, State lottery revenues amounted to approximately $91 per ADA or $59.9 million dollars while the current expense of education was estimated as $1.687 billion. Thus lottery revenues were approximately 3.6% of current expense of education in fiscal year 1986-87. This means on a statewide basis, districts could change their 50% law computation by approximately 1.8 percentage points, considerably less than in the preceding fiscal year.

Lease of plant and equipment

This exclusion seems very straight forward, either a district incurs such lease costs and take the exclusion or it does not incur such costs and does not take the exclusion, however, it appears that there are two basic interpretations regarding the exclusionary treatment for lease of plant and equipment:

1. Only those agreements which are executed for the primary purpose of leasing a plant, facility, or equipment are eligible for exclusion.

2. Any agreement, a component of which can be directly associated with the lease expenses for plant or equipment, is eligible for exclusion, to the extent the amount so excluded does not exceed the expenses directly attributable to the lease expenses for plant and equipment.

A review of the financial data reveals that several districts are applying both interpretations to various agreements which result in an increased 50% law computational figure.

Of all the community college contracts eligible, districts are primarily applying the dual methodologies to the following:

1. Lease/maintenance of computer systems

2. Instructional agreements

Leasing of Computers

For some districts, lease/maintenance of computers can be financially burdensome, depending, of course, on where the district lies on the spectrum of phasing in a computer system upgrade to a complete computer system conversion. Nevertheless, most invoices from major computer manufacturers can be separated into the following three categories:

1. Rental/lease of equipment/system

2. Maintenance service of computer equipment (hardware)

3. Software license fees and maintenance fees

Expenditures of the first category are treated as totally excludable because they meet the criterion of the first interpretation - agreements which are executed primarily for lease of plant or equipment.

Expenditures of the second category are not excludable because they are charges for maintenance service of the equipment (computer hardware) and do not meet either interpretation.

Expenditures of the third category can be separated in maintenance fees for servicing the computer software and license fees charged for possessing and using the software. The maintenance fees on the software follow the same interpretation as maintenance service on the computer hardware - they are not excludable. On the other hand, software license fees are excluded by some districts. Since the software is an integral part of the computer system and the license which can be a significant amount grants possession and use, some districts treat it similarly to equipment leasing expenses.

In order to maintain the principles of consistency and comparability, the State Chancellor's Office needs to issue appropriate accounting guidelines and/or pronouncements, that will more clearly define excludable expenses and limit interpretation accordingly.

Instructional Agreements

Instructional agreements can also be financially burdensome to districts. These agreements are entered into by districts and non public vocational schools, which are licensed by the State of California, to provide training to students of the district in cosmetology, court reporting, medical/dental technology, and other vocational education programs. Most of the instructional agreements used by community college districts are similar. Generally the district provides administration functions such as admissions, counseling, registration, maintenance of achievement records, and presentation of achievement awards. The contractor (non public vocational school) provides instruction, training, facilities, supervision, and equipment.

Many of the agreements also state that the contractor maintains workers' compensation for its employees and that each instructor of the contractor in the program possess a valid license granted by a specified Board of the State and a valid credential issued by the California Community College Board of Governors.

Given this information, some districts, with documentation from the contractor, have separated the instructional agreements into the following major categories:

1. Salaries and benefits of instructors
2. Costs for lease/rental of plant or facilities
3. Costs for lease/rental of equipment
4. Other costs

Using the second interpretation of excludable expenses, as described on page 13, all costs of categories 2 and 3 above are excludable from the current expense of education. Costs in category 4 above are not excludable since they do not meet either interpretation. Costs in category 1 above were untouched by all the districts reviewed in this report and remained in the denominator, however, several district expressed an interest in transferring category 1 costs to the numerator because of the following:

1. Such costs are incurred for salaries and benefits of instructors
2. All such instructors possess valid teaching credentials issued by the California Community College Board of Governors
3. All instructors are teaching students of the district in an approved instructional program

Districts further argue that if such costs were not incurred by contractor (non public vocational school), the district would have to hire such licensed and credentialed instructors, probably at a higher cost, to continue or implement the vocational training program.

On the other hand, these are two primary reasons which have presented districts from transferring such costs to the numerator:

1. The State Chancellor's Office has not approved such expenses as excludable
2. Education Codes 84362 and 84031 include, in the definition of salaries of classroom instructors, the phrase employed by the district. Many interpret this to mean the district must be the direct employer of the instructors. All instructional agreements reviewed by this report indicate that instructors are directly employed by the contractor.

The largest component cost of the instructional agreements is salaries and benefits of instructors. It ranges from 50% to 60% of the total cost of the agreement. In comparison the costs for lease of plant and equipment range from a low of 8% to a high of 20%.

It appears that for those districts that have instructional agreements, a seemingly large amount of expenditures may be eligible for transfer from current expense of education to salaries of classroom instructors. As illustrated on page 8 in chapter III of this report, mathematically the transfer method yields the highest quotient increase.

In this case, moving instructors salary and benefits costs from a contract service account to salary and benefit accounts is simply a reclassification of funds already expended and is the most efficient and effective method of increasing a districts 50% law position.

County departments of education, which prepare the payroll warrants for almost all districts, generally will not allow reclassifications from contract services accounts to certificated salary and benefit accounts without proper documentation i.e., a legal opinion or approved directives from the State Chancellor's Office. However, any district which can write its own payroll warrants has the ability to make journal entries reclassifying such expenses.

Other Exclusions

The other exclusions, items 3 through 18 as listed on page 11, will be treated collectively since they share common accounting treatment.

Essentially, only direct costs can be excluded. Some examples of direct costs would include; salaries and benefits of parking lot attendants, food services workers, community services clerks, bookstore cashiers; parking supplies and equipment, parking, food and community services utility costs, etc. Some direct cost because they serve more than one program must be allocated.

There are several acceptable allocation methods i.e., actual direct labor hours, square footage, metered rates, etc. For example, if a full time general office clerk is assigned and spends 4 hours per day in the community services office and 4 hours per day in the counseling center then, 50% of the costs of that position would be a direct cost of the community services and 50% would be a direct cost of counseling and guidance. Based on the above, 50% of the total cost of salary and benefits of the general office clerk, would be excludable.

The allocation methods used by all the districts reviewed are in keeping with generally accepted accounting principles and practices, however, research indicates that districts differ greatly in the application of the above principles. For example, among the districts reviewed it was found that General Fund Unrestricted utility expenses (electricity, natural gas, water, & telephone) allocated to community services, food services, parking, bookstore, and other excludable programs/activities ranged from 0% to approximately 30%.

Similar inconsistencies were found with regard to the allocation of salaries and benefits of key personnel. Some districts allocate a portion of the salary and benefit costs of the Vice Chancellor / Assistant Superintendent in charge of Community Services to that activity and others do not. Other districts establish separate funds to handle risk insurance programs and in doing so, allocate certain administrative, management, supervisory, technical, secretrial, and clerical salaries and benefits to those funds. Those districts which have similar risk insurance programs but operate them within the General Fund of the district do not have the option of excluding such costs by allocating them to other funds.

Some districts allocate up to 50% of their campus security/police personnel including dispatching, secretarial/clerical support and responsible managers/administrators to the parking activity in order to exclude such costs from the 50% law computation. Other districts, in the study, allocate much less than that amount to the parking activity. The study also indicates that a few districts, which have categorical funds, increase excludable expenses by assigning district match monies to instructional expenses and categorical funds to noninstructional expenses, which increases the district's 50% law position.

V. NEW DEVELOPMENTS

Indirect Cost Allocation

One district is considering the application of the allocation principle to indirect costs as a new approach to more equitably distributing expenses to programs/activities and thereby improving their 50% law position.

The process of allocating indirect costs is an accepted accounting treatment. For many years the Federal Government allowed districts to apply for an indirect cost rate for specified grants/categorical funds. The application of the approved indirect cost rate effectively increased the district's expenses and concomitant claims thereby reimbursing the district for such indirect costs.

Even today some grants/categorical funds allow a small percentage (2% - 5%) for administrative costs which, theoretically, cover a districts indirect costs of operation/management.

Therefore, it seems reasonable that indirect costs could be included in any of the programs/activities which are currently excludable from current expense of education.

The allocation method would be more difficult to determine than direct costs, however, guidelines could be developed with the help of the California Association School Business Officials and the State Chancellor's Office.

The indirect costs which could be allocated include, but are not limited to salaries, benefits and supplies of: instructional administration, instructional support services, admissions and records, counseling and guidance, operation and maintenance of plant, and planning and policy making. These major areas of activities include every noninstructional office/department from academic administration to payroll services.

It would appear that this new approach may run into competition with the State's new directives on differential funding, however, much would depend on the differential funding model selected by the State Chancellor's Office.

In conclusion, it is the finding of this report that the accounting process of allocating indirect costs is a viable approach to more equitably distributing costs to programs/activities which are excluded from current expense operation and should be presented to State organizations and the Chancellor's Office for consideration.

Instructional agreements

Recently, one district requested a legal opinion from its county's department of education schools legal service office regarding instructional agreements.

Specifically, the district requested an opinion on the following question: "Is the teacher who has a contract with the district to instruct district students at a cosmetology school an instructor for purposes of the 50% law compliance?"

The answer is as follows:

"If the teacher who has a contract with the district to instruct district students at a cosmetology school is in a position requiring certification qualifications and whose duties require him/her to teach students of the district for at least one full instructional period each school day for which the employee is employed, then, the teacher would be an instructor for purposes of the 50% law compliance."

The opinion also states that because "there are no attorney general opinions or court cases regarding the the 50% law, it is more difficult to determine with any accuracy how the courts would rule in this regard. Also, contact with other attorneys indicates that this is not a clear area of law and while not completely free from doubt, it would appear that an employee of a private agency can also be considered as an employee of the district if the appropriate contract is provided."

As indicated on page 14 of the Findings of this report, instructional agreements are an area of extreme interest to several districts. In order for the legal opinion to apply, most districts would have to amend their existing instructional agreements specifying that the district has primary right to control and direct the instructor's activities while he/she is serving the district and enter into a separate contract with each instructor, specifying terms and conditions of work, salary and other compensation, work to be performed and employment classification.

The opinion is significant because, to the knowledge of this researcher, it is the first legal interpretation rendered by a county schools legal service department dealing with the definition of "instructor" with regard to the 50% law. It also serves as legal precedence supporting the thinking of some college business officials who share the same interpretation. As illustrated on page 8 of the definition part of this report, transferring noninstructional expenses to instructional salaries is the most efficient and cost effective method of increasing a district's 50% law position.

This could result in a review by the State Chancellor's Office and perhaps bring forth a statewide opinion, pronouncement or ruling - a most welcome improvement and a step toward consistency in financial and statistical reporting.

VI. POSTULATES

Chapter Summary

Each of the 9 postulates presented in this chapter is subject to a wide range of variation.

Since none of the 70 California Community College districts share the exact same mix of postulates, each district is unique. It is this uniqueness then, that causes one district to comfortably achieve the 50% law requirement in contrast to its neighboring district which struggles to meet the 50% law compliance.

It has been said that the 70 California Community College districts have much in common. It has also been said the there are many differences among them. One of the primary objectives of this report is to identify those differences which significantly affect the districts position relative to the 50% law requirement.

It is the finding of this report that the following factors have the most significant influence on the 50% law:

1. Faculty salary schedules

    a. Higher schedules tend to produce higher 50% law figures.
    b. Lower schedules tend to produce lower 50% law figures.

2. Distribution of faculty salaries

    a. A higher concentration of faculty at the upper end of the schedule tends to produce higher 50% law figures.
    b. A higher concentration of faculty at the lower end of the schedule tends to produce lower 50% law figures.

3. Percentage of faculty contract hours taught by part time instructors

    a. A higher part time ratio will tend to produce lower 50% law figures.
    b. A lower part time ratio will tend to produce higher 50% law figures.

4. ADA per faculty full time equivalent (ADA/FTE)

    a. A higher ADA/FTE will tend to produce lower 50% law figures.
    b. A lower ADA/FTE will tend to produce higher 50% law figures.

5. Educational mix - credit/noncredit ADA:
   a. A higher percentage of noncredit ADA tends to produce a lower 50% law figure.
   b. A lower percentage of noncredit ADA tends to produce a higher 50% law figure.

6. District organization/educational delivery mode

   a. A more decentralized multi campus, multi center, organization tends to produce lower 50% law figures.
   b. A more centralized single campus organization with fewer locations tends to produce higher 50% law figures.

7. Use of non public vocational training schools (instructional agreement)

   a. A higher utilization of instructional agreements tends to produce lower 50% law figures.
   b. A lower utilization of instructional agreements tends to produce higher 50% law figures.

8. Non instructional staffing ratio

   a. Higher noninstructional staffing ratio tends to produce lower 50% law figures.
   b. Lower non instructional staffing ratio tends to produce higher 50% law figures.

9. Non instructional salary schedules (administrative, management, supervisory, confidential, and classified)

   a. Higher noninstructional salary schedules tend to produce lower 50% law figures
   b. Lower noninstructional salary schedules tend to produce higher 50% law figures.

VII. SUMMARY & CONCLUSION

It is the finding of this report that because of the uniqueness, and magnitude of lottery revenues and the varied application of generally accepted accounting principles the 50% law and some statewide statistical parameters have lost their integrity.

The 50% law, as prescribed by sections 84362 and 84031 of the education code, page IV 35-37 of the California Community College Budget and Accounting Manual, and pronouncements by the State Chancellor's Office, should be repealed and replaced with a better piece of legislation.

Such change could come about indirectly, e.g., the implementation of differential funding, however, much would depend on the differential funding model adopted by the State. Whether directly or indirectly, politically or analytically, a change is needed and would be welcomed by most of the community college business/fiscal officers.

The 50% law has for to many years, fostered inconsistent accounting practices and with the recent addition of lottery expenses, it has lost consistency and comparability as a statewide statistic. It also no longer serves as the barometer intended by section 84362 of the education code.

The study also highlights several new approaches to increasing a district's position relative to the 50% law requirement. These new approaches are still in the developmental stage and as yet have not been approved by the State Chancellor's Office.

In addition, the report identifies 9 factors which significantly influence a district's position relative to the 50% law and concludes that these axioms account for the uniqueness of each district.

VIII. APPENDIX

EXHIBIT I

Salaries of classroom instructors
as a percentage of current expense of education
for selected California Community College Districts

	District	FY 85-86	FY 86-87	Change + Increase - Decrease
1.	Compton	50.17%	51.15%	+ .98
2.	Merced	51.39%	51.26%	- .13
3.	Mt. San Antonio	57.77%	55.40%	-2.37
4.	Mt. San Jacinto	50.52%	51.89%	+1.37
5.	North Orange County	52.73%	50.33%	-2.40
6.	San Bernardino	50.66%	50.04%	- .62
7.	San Diego	54.40%	53.14%	-1.26
8.	San Joaquin Delta	54.08%	51.22%	-2.86
9.	San Luis Obispo	51.36%	50.42%	- .94
10.	State Center	50.58%	50.04%	- .54

EXHIBIT II

California Community Colleges
Fiscal Year 1985-86

Frequency Distribution of Instructors Salaries
as a Percentage of Current Expense of Education

Percentage	Number of Districts	Cumulative Number of Districts	Percentage of Districts	Cumulative Percentage of Districts
39.00 - 39.99	1	1	1.4%	1.4%
40.00 - 40.99				
41.00 - 41.99				
42.00 - 42.99	1	2	1.4%	2.8%
43.00 - 43.99				
44.00 - 44.99				
45.00 - 45.99				
46.00 - 46.99				
47.00 - 47.99	1	3	1.4%	4.2%
48.00 - 48.99				
49.00 - 49.99				
50.00 - 50.99	21	24	30.0%	34.2%
51.00 - 51.99	15	39	21.5%	55.7%
52.00 - 52.99	13	52	18.7%	74.4%
53.00 - 53.99	7	59	10.0%	84.4%
54.00 - 54.99	6	65	8.6%	93.0%
55.00 - 55.99	1	66	1.4%	94.4%
56.00 - 56.99				
57.00 - 57.99	1	67	1.4%	95.8%
58.00 - 58.99	1	68	1.4%	97.2%
59.00 - 59.99				
60.00 - 60.99	1	69	1.4%	98.6%
61.00 - 61.99				
62.00 - 62.99	1	70	1.4%	100.0%
TOTAL	70	70	100.0%	100.0%
Mean			52.39%	

ARTICLE 2 — ACCOUNTING, BUDGET CONTROLS AND AUDITS

§ 84030. Accounting System; Requirements for Accounting Manual

The accounting system including the uniform fund structure used to record the financial affairs of any community college district shall be in accordance with the definitions, instructions, and procedures published in the California Community Colleges Budget and Accounting Manual as approved by the board of governors and furnished by the board of governors. No accounting manual so approved shall expressly or by implication affect the content of any educational program or objective, except as otherwise specifically provided for by this code. The Legislature hereby finds that such content shall be best determined by those involved in the administration of educational programs, including community college district governing boards, local administrators, instructors, students, and parents.

Amended 1951 Laws, Ch. 930. Effective 1-1-82.

§ 84031. Accounting System Requirements

The accounting system used to record the financial affairs of any community college district shall be designed to provide, in a manner consistent with standards and procedures developed pursuant to Sections 84040 and 84040.5, a separate recording of, and a clear distinction between expenditures for salaries of classroom instructors employed by the district, salaries of administrators and supervisors employed by the district, administrative costs other than salaries, and expenditures for other purposes of the district.

As used in this section "salaries of classroom instructors" means:

(a) The salary paid to each instructor employed by the district whose duties require that the full time for which the instructor is employed be devoted to the instruction of students of the district.

(b) The portion of the salary of each instructor whose duties require that a part, but not all, of the full time for which the instructor is employed be devoted to the instruction of students of the district, which is equal to the portion of such full time

actually devoted by the instructor to teaching students of the district.

(c) The salary paid to each instructional aide employed by the district, any portion of whose duties are required to be performed under the supervision of an instructor.

As used in this section an "instructor" means an employee of the district employed in a position requiring certification qualifications and whose duties require him to teach students of the district for at least one full instructional period each schoolday for which the employee is employed. An instructional period is the number of minutes equal to the number of minutes of the regular academic period in the community college in which the instructor is employed.

As used in this section, "administrator" means any employee in a position having significant responsibilities for formulating district policies or administering district programs and "supervisor" means any employee having authority, on behalf of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, adjust their grievances, or effectively recommend such action, if the exercise of such authority is not of a merely routine or clerical nature.

§ 84032. Repealed 1979 Laws, Chapter 776.

§§ 84033.–84034. Repealed 1981 Laws, Ch. 930 Effective January 1, 1982.

§ 84035. Repealed 1981 Laws, Ch. 930. Effective January 1, 1982.

§ 84036. Repealed 1981 Laws, Ch. 471. Effective January 1, 1982.

§ 84037. Repealed 1981 Laws, Ch. 930. Effective January 1, 1982.

§ 84038. Repealed 1981 Laws, Ch. 471. Effective January 1, 1982.

§ 84039. Repealed 1981 Laws, Ch. 930. Effective January 1, 1982.

§ 84333. Repealed 1979 Laws, Chapter 797.

ARTICLE 4 — Repealed 1981 Laws, Ch. 470. Effective January 1, 1982.

ARTICLE 5 — USE OF APPORTIONMENTS

§ 84360. Limitation on District Use of Apportionment

The governing board of each community college district shall, except as may otherwise be specifically provided by law, use all money apportioned to the district from the State School Fund during any fiscal year exclusively for the support of the school or schools of the district for that year.

§ 84361. Use of Unexpended Balance

If at the end of any fiscal year during which the schools of a community college district have been maintained for the period required or permitted by law, there is standing to the credit of the district an unexpended balance of money received from the State School Fund, it may be expended for the payment of claims against the district outstanding, or it may be expended during the succeeding fiscal year.

§ 84362. Apportionments for the Payment of Salaries of Classroom Teachers: Definitions

For purposes of this section:

(a) "Salaries of classroom instructors" and "instructors" shall have the same meaning as prescribed by Section 84031. However, the cost of all health and welfare benefits provided to the instructors by the community college district shall be included within the meaning of salaries of classroom instructors.

(b) "Current expense of education" means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a district (except one which, during the preceding fiscal year, had less than 101 units of average daily attendance) for certificated salaries other than certificated salaries for student transportation, food services, and community services; classified salaries other than classified salaries for student transportation, food services, and community services;

employee benefits other than employee benefits for student transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for student transportation and food services; and community services, contracted services, and other operating expenses other than for student transportation, food services, and community services. "Current expense of education," for purposes of this section, shall not include those expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the Accounting Manual for California Community Colleges), the amount expended from categorical aid received from the federal or state government which funds were granted for expenditures in a program not incurring any instructor salary expenditures or requiring disbursement of the funds without regard to the requirements of this section, or expenditures for facility acquisition and construction; and shall not include the amount expended pursuant to any lease agreement for plant and equipment or the amount expended from funds received from the federal government pursuant to the "Economic Opportunity Act of 1964" or any extension of such act of Congress or the amount expended by a community college from state or federal funds received by the community college for grants to community college students or for the employment of community college students. Districts which levied a health services fee in the 1983-84 fiscal year and are subject to Section 72246.5 should not include health services expenditures in calculating the base current expense of education.

There shall be expended during each fiscal year for payment of salaries of classroom instructors by a community college district, 50 percent of the district's current expense of education.

If the board of governors determines that a district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom instructors during the preceding fiscal year, the board shall, in apportionments made to the district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the board of governors shall be deposited in the county treasury to the credit of the community college district, but shall be unavailable for expenditure by the district pending the determination to be made

by the board of governors on any application for exemption which may be submitted to the board of governors. In the event it appears to the governing board of a community college district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom instructors in excess of the salaries of classroom instructors paid by other districts of comparable type and functioning under comparable conditions, the governing board may, with the written approval of the county superintendent of schools having jurisdiction over the district, apply to the board of governors in writing not later than September 15th of the immediately succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section.

Immediately upon applying for such exemption, the governing board shall provide the exclusive representative of the district's certificated employees or, if none exists, the district or college academic senate, and all certificated employee organizations eligible for payroll dues deduction, with a copy of such application. The exclusive representative, or the district or college academic senate, and all certificated employee organizations eligible for payroll dues deduction, within 30 days of its receipt of such application, may transmit to the board of governors a written statement opposing such application, setting forth reasons for its opposition.

Upon receipt of such application, duly approved, and of such statement of opposition, if any, the board of governors shall grant the district exemption for any amount that is less than one thousand dollars ($1,000). If the amount is one thousand dollars ($1,000) or more, the board of governors may grant the district exemption from such requirement for the fiscal year for which the application is made if a majority of all the members of the board of governors finds, in writing, that the district will in fact suffer serious hardship or will have to pay salaries of classroom instructors in excess of those paid by other districts of comparable type and functioning under comparable conditions unless the district is granted an exemption. If such exemption is granted, the designated moneys shall be immediately available for expenditure by the community college district governing board. If no application for exemption is made or exemption is denied, the board of governors shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom instructors during the next fiscal year.

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The board of governors shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. It may require the submission during the school year, by community college district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

(c) This section shall remain in effect only until January 10th 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes and extends that date. If that date is not deleted or extended, then on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 84362 of the Education Code, amended by Section 296 of Chapter 470 of the Statutes of 1988 shall have the same force and effect as if this temporary provision had not been enacted.

Amended 1984 Laws, Ch. 274. Effective 7-3-84.

PART III

CALIFORNIA COMMUNITY COLLEGES
ANNUAL FINANCIAL AND BUDGET REPORT

Supplemental Data (Actual and Budget Years)

Analysis of Compliance to the 50% Law (ECS 84362)
The Current Expense of Education

FIN'S11A GENERAL FUND - UNRESTRICTED

OBJECT CATEGORY	State Use Only (EDP)	ACTUAL 1986-87 ECS 84362(a) Instructional (0100-5900) (1)	ACTUAL 1986-87 ECS 84362(b) Total (0100-6700) (2)	BUDGET 1987-88 ECS 84362(a) Instructional (0100-5900) (3)	BUDGET 1987-88 ECS 84362(b) Total (0100-6700) (4)
Certificated Salaries (CA 1000)	409				
Classified Salaries (CA 2000): Noninstructional Salaries (CA 2100 and 2300)	411	//////////		//////////	
Instructional Aides (CA 2200 and 2400)	416				
Subtotal Classified Salaries	419				
Employee Benefits (CA 3000)	429				
Supplies and Materials (CA 4000)	435	//////////		//////////	
Other Operating Expenses and Services (CA 5000)	449	//////////		//////////	
Equipment-Replacement	451	//////////		//////////	
Total (409 + 419 + 429) and (435 + 449 + 451)**	459				
Less Exclusions for Current Expense of Education	469	( )	( )	( )	( )
Totals for ECS 84362, 50% Law (459 minus 469)	470				
Percentage of CEE (470 col. 1 ÷ 470 col. 2) or (470 col. 3 ÷ 470 col. 4)	471	.__%	100.00%	.__%	100.00%
50% of Current Expense of Education (50% of 470 col. 2 or col. 4)	472				
Nonexempted Deficiency from 2nd preceding fiscal year	473				
Amount Required to be Expended for Salaries of Classroom Instructors (472 + 473)	474				

**if applicable
* Fund Identification Number

Supplemental Data
Analysis of Compliance to the 50% Law
Current Expense of Education

Instructions

This page is designed to collect actual data and budget data on the district's current expense of education and for the annual analysis of district compliance to Education Code Section 84362 (the 50% law). This page applies only to the General Fund, Part A - Unrestricted data.

For purposes of the 50% law, salaries of instructional aides reported on line 4.5 columns 1 and 3 must be for Direct Instruction as defined on page IV-35-37 of the Budget and Accounting Manual (Rev. October 1985).

Salaries of instructional aides not meeting the definition of Direct Instruction are to be included in the total figure reported on line 416, columns 2 and 4.

Effective July 1, 1984, Equipment Replacement (451) is a sub-object under object of expenditure CA 6400 Equipment. Because the definition of current expense of education includes Equipment Replacement, this amount must be added in.

Exclusions for Current Expense of Education (469) are those expenditures reported in the lines 409 through 459 which are for student transportation, lease agreements for plant and equipment, state or federal funds received for grants to community college students or for the employment of community college students, and any other exclusions specified in Title 5 regulations. Effective 7/1/84, health services maintenance of effort costs exceeding any available health fee funds may be excluded from current expense of education. However, should health fees be reinstated (effective 1/1/88), such costs will again be applicable to the restricted revenue collected. In addition, amounts expended from State Lottery Proceeds are to be excluded from the current expense of education.

Line 473 is any deficiency from the second preceding fiscal year which was not exempted by the Board of Governors.

Subtract line 474, column 2 or column 4 from line 470, column 1 or column 3. If the result is negative, the district did not expend the required amount for salaries of classroom instructors.

The district may file an application for exemption from the 50% law. Such application must be filed no later than September 15 on Chancellor's Office Form CCFS-350A.

Reference: Education Code Sections 84031, 84362
Budget and Accounting Manual Page IV-35-37

ERIC Clearinghouse for Junior Colleges OCT 13 1989

CROSSWALK TABLE FOR DETERMINING SALARIES OF CLASSROOM INSTRUCTORS AND CURRENT EXPENSE OF EDUCATION

GENERAL FUND - UNRESTRICTED OBJECTS OF EXPENDITURES

OBJECT	EDP	CURRENT EXPENSE OF EDUCATION	
		SALARIES OF CLASSROOM INSTRUCTORS ACTIVITIES 0100-5900 (1)	TOTAL CEE ACTIVITY[1] 0100-6700 (2)
1000 Certificated Salaries	409	1100 1300	1100, 1200 1300, 1400
2000 Classified Salaries	411		2100 2300
Instructional Aides	416	22XA[2] 24XA[2]	2100, 2200 2300, 2400
3000 Employee Benefits	429	3_XA[3]	3000
4000 Supplies and Materials	435		4000
5000 Other Operating Expenses	449		5000
64XX Equipment Replacement	451		64XX
Less Exclusions	469	Exclusions	as defined
Total	470	Salaries of Classroom Instructors	Current Expense of Education

1 Column 2 includes all costs in the accounts listed in column 1.
2 Includes those Instructional Aides costs in the subaccounts identified as Direct Instruction.
3 Includes Employee Benefits CA 3100 through 3900, subaccount Certificated Instructors and Instructional Aides (Direct Instruction).